



MEMORANDUM

To: PLANNING COMMISSION

Date: December 11, 2012

**From: COMMUNITY DEVELOPMENT DEPARTMENT
JIM ROWE, CONTRACT PLANNER**

**Subject: RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) PUBLIC
HEARINGS FOR THE FISCAL YEAR 2012-13 COMPETITION**

BACKGROUND

Ten (10) project applications were accepted for this year's Residential Development Control System (RDCS) competition. Public Hearings for each project have been scheduled for the December 11 Planning Commission meeting and can be continued to a special meeting on Thursday evening, December 13, 2012 if needed to complete the public hearings. The meeting on December 13 will be held in the City Council Chambers at City Hall. Resolutions approving the final project scores will be approved at the January 8, 2013 Planning Commission meeting.

OVERVIEW OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM EVALUATION PROCESS.

The Residential Development Control System (RDCS) evaluation is divided into two parts. The first section also referred to as Part 1 or Part A is concerned with the general ability of the city to provide major public facilities and services to new residential projects without creating additional impact. This section is weighted heavily, meaning that a proposed project must obtain the minimum required points (seven and a half points) and receive minimum passing scores under certain categories in order to proceed to the next step of the evaluation.

The next step, Part 2 or Part B, reflects the quality of the project design and the extent to which it contributes to the welfare of the community. The intent of these criteria is to encourage competition and to promote additional effort which creates innovative designs that satisfy user needs. The standards and criteria in Part 2 are guidelines, and it is important to note that a developer is not precluded from improving upon or augmenting these guidelines, upon approval of the Community and Economic Development Director. Criteria for each category in Part 2 are, therefore, more subjective and, thus, merely points out those items which the developer should consider to maximize his or her project rating.

After successful completion of both Parts 1 and 2, the projects which have received at least seven and a half points (7.5) in Part 1 and have been given the most points in Part 2, one hundred sixty points (160) and over, (except micro and 100% affordable projects, for which the total score is 150 points and over), with minimum passing scores in certain categories will then be eligible for allotments and subsequent building permits, subject to Section 18.78.120. Those that may not receive any allotment this year will have an opportunity to improve their designs and reapply during the next competition.

DISCUSSION

Scoring Methodology and Global Issues:

Competition Category for Application MC-12-10: Juan Hernandez - Shaw

The applicant for this project is requesting 6 points under the criterion B4 of the Housing Needs category for a commitment to pay double the housing mitigation fee. This criterion only applies to a Micro, Small or any project having all lots in excess of 20,000 square feet. Staff has evaluated this project as an extension of the Laurel Oaks development as opposed to as a separate stand along project. This 'final phase' of the development consists of 15 lots. The applicant is requesting this final phase be allowed to compete under Small Projects category (open to projects between 7 and 15 dwelling units in size) as opposed to having to compete under the larger Open/Market category that would include the adjacent Phases I and II (19 lots) of the Laurel Oaks development in the dwelling unit count. Staff believes the project should only be allowed to compete under the Small Projects category if the project was scored as a separate stand along project. This project was evaluated and scored as the final phase of a larger development consisting of 34 dwelling units.

Eligibility for On-going Projects to receive a Building Allotment

Pursuant to the attached City Council policy CP-09-03, a portion of the annual building allocation may be reserved for On-going Projects. These are projects that completed previously and are partially built out. To be eligible, the earlier phases of an on-going development must be in compliance with the development schedule approved for the project. An exception is allowed where the delay is due to extended city processing. On-going projects may receive up to 15 building allotments each fiscal year outside of the RDCS competition process. The portion of the building allotment awarded to on-going projects is subtracted from the limited allotment for that fiscal year. For the current RDCS competition, 30 building allotments have been set-aside for eligible on-going projects.

An on-going project may continue to receive up to a 15-unit allotment when the project has met the physical commencement requirement as defined in City Council Policy CP 07-04 and the project is actively building under current valid building permits at the time of the next award of the building allotment. In instances where an on-going project is not actively building as

described above, the Planning Commission may suspend the up to 15 unit allotment for one fiscal year, or the Commission may award less than a 15 unit allotment for the project. This action would be undertaken when an eligible on-going project has 45 or more unused building allocations received from distributions awarded over three or more fiscal years. Currently there are three on-going projects that have more than 45 unused building allocations distributed over three or more fiscal years. The first project is application MC-04-22: Jarvis – South Valley Development (Madrone Plaza) with 197 unused allocations. The City received the attached letter from Mr. Jim Schilling dated October 18, 2012 requesting an additional 15 unit allotment for FY 2014-15. This project is no longer actively building and is therefore not eligible to receive an automatic 15 unit allotment at this time.

The second project requesting an on-going allocation is application MC-04-26: Mission View – Dividend (Mission Ranch). The Mission Ranch development has 70 unused allocations. The developer has pulled building permits and is actively building out Phase 10 of the development. The project developer, Richard Oliver with Dividend Homes, is requesting a 15 unit allotment for FY 2014-15 (see attached letter dated September 28, 2012). Staff recommends the project receive a 15 unit allotment when building allocations are approved on January 8, 2013.

The third eligible on-going project with more than 45 allocated units is application MC-04-04: Diana – Chan (Sherimar). KB Homes is the project developer and has applied for new allocations in the current RDCS Open/Market competition. The project will not require a 15 unit allotment from the on-going project set-aside.

In addition to the above projects, staff has also received written requests from Mr. Oliver to receive on-going project allocations for the Watsonville – Dividend (Connemara Project) senior housing project and Clayton – O'Brien single family residential project. The Watsonville - Connemara Project is behind schedule and is not eligible to receive an on-going building allocation. The Clayton – O'Brien project is under construction and would be eligible to receive the requested 5 unit building allotment on January 8, 2013.

Planning Commission's Livable Communities Category Project Excellence Point:

Under criterion B1 of the Livable Communities category, proposed project phase(s) are subjectively judged by the Planning Commission to be superior with respect to overall project excellence. **(two points** when awarded by a super majority of the voting members, or **one point** when awarded by a majority of the voting members of the Planning Commission). The determination of project excellence will include input from the Building and Planning Divisions and the Public Works Department regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects, which submit for building permits prior to Design Permit approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City. ***Staff will provide information regarding developer past performance at the December 11 meeting.***

Commissioners should evaluate each project prior to the scheduled meetings and determine which projects are superior. The Commission will award the Project Excellence Points at the January 8, 2013 Commission meeting along with approval of final scores for all of the competing projects.

Public Hearing procedure:

Staff is recommending that the Commission utilize the format used for the public hearings last year.

To conclude the public hearing for the 10 RDCS applications at the December 11 meeting, the Planning Commission may wish to limit the public hearing time on each proposal. In the past, the Commission has conducted the public hearings in the following manner:

1. Request all who wish to speak to fill out Speaker Cards and give to the Minutes Clerk.
2. Staff will respond to the written comments regarding the staff evaluation.
3. Comments by applicants should be limited to five minutes per project.
4. Comments by citizens should be limited to three minutes. Request that citizens not repeat comments made by others. Rather, only indicate agreement with other speakers.
5. At the close of each public hearing, the Planning Commission should focus on issues that would result in change of points, and direct staff to change points where a majority of the Commission requests a reevaluation. A possible modification in the point scores may result from this further review.

To expedite the overall review process, the Commission is encouraged to limit its review to projects that are in close competition for the available building allotment. In other words, if a project, based on the initial scoring, is well down on the list of eligibility, then it may not be necessary to spend a lot of time discussing the individual scoring adjustments for that project.

Based on policy direction received from the Planning Commission at the December 11 and 13 meetings, and review of the testimony and written comments received, a further evaluation of each project will be conducted. This further review may result in adjustments to the recommended point scores for some projects. Any adjustments in the point scores will be contained in a staff report for the January 8, 2013 Planning Commission meeting.

To assist staff in our final review, it is requested that Commissioners identify the specific criteria within the evaluation categories that should be reevaluated. In addition, given the short turnaround between the public hearings and the meeting date for final action, we would ask that the Commission limit requests for reevaluation only in those areas where the point adjustments would change the total point score for a project in a given category or affect a project's eligibility

to receive a building allotment. It would also be helpful if the requests for scoring changes were limited to those projects and specific criteria where the Commission by majority, agrees there should be a reevaluation.

RECOMMENDATION

At the close of public hearing for each RDCS application, the Planning Commission should vote on any further scoring adjustment. Based on the final scores approved at the December 11 and 13 meetings, staff will prepare a resolution for adoption at the January 8, 2013 meeting.

Please bring your revised project narratives and plans to the Planning Commission meeting. Staff will be using the Council Chamber projector display the plans and narratives electronically.

Attachment:

- 1) Correspondence from RDCS applicants.
- 2) City Council Policy on Allocations for On-Going Projects
- 3) Letters from Richard Oliver and Jim Schilling requesting on-going building allocations.

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December 3rd, 2012

RE: Staff Review, 2012 Final Point Scores

Open Space Section 1E:

In 2011 the project was awarded .5 pts. for committing to install a plaque or marker. Project has committed to installing the same plaque as it did in 2011 and therefore should be awarded the .5 points.

The applicant also submitted the attached document outlining the reasons why it should be awarded TWO points, the maximum for this item. Please see the attachment below.

OPEN SPACE ATTACHMENT

Open Space Item 1E:

Per the recently amended criterion, the San Sebastian project qualifies for the awarding of two full points under Section 1E

Project qualifies for two points for the following reasons:

- Project is adjacent to the historic Rhoades Ranch.
- Rhoades Ranch Property is currently under a Mills Act Contract
- Rhoades Ranch Property is under a Historical Preservation Contract.
- Rhoades Ranch Property is on the County of Santa Clara's historical registry.
- Project proposes no disturbances to the Rhoades Ranch.

See attached: DPR Form, Adopted Resolution of Contract and Resolution for Rhoades Ranch, Mills Act 10 Year Plan for Preservation.

Per the attached Mills Act 10 Year Preservation Plan, Attachment 5 for the Rhoades Ranch, applicant commits to completing the following rehabilitation work at a cost not to exceed the estimated provided within the document.

- Plaster Walls in Basement
- Refinish Front Door
- Restore Wood Floors

Applicant has not received approval of said improvements from property owner.

Applicant commits to install a historical plaque and or marker.

Housing Types: Section 2A:

In the prescore for the 2011 RDCS application the project was awarded 4 pts. for the same commitment it made in this year's 2012 RDCS application.

In the final awarding of points for the 2011 RDCS application the project was awarded 4 pts. for the same commitment it made in this year's 2012 RDCS application.

In the prescore for the 2012 RDCS application the project was awarded 4 pts. for the same commitment it made in this year's 2012 RDCS application.

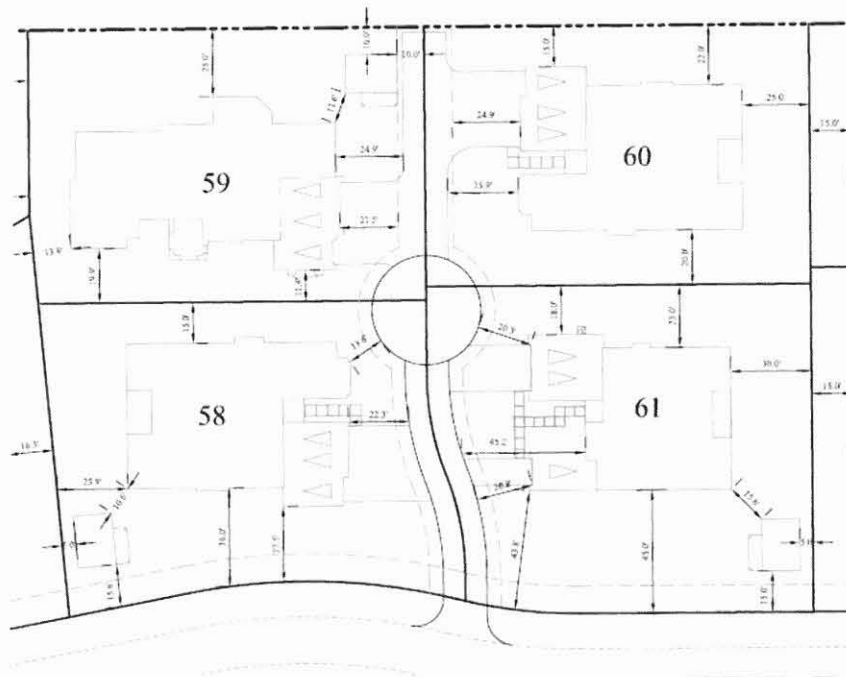
We have been awarded 4 pts. for Section 2A of Housing types on 3 different occasions with the same commitment we represented in the 2012 RDCS application. The most recent awarding of 4 pts. was from the 2012 RDCS prescoring application. The points were awarded by Staff and the PC on three previous occasions. We submitted our 2012 prescore to determine where we stood from a point perspective. The scoring representations made by staff impacted the point commitments we made in other categories.

From a consistency standpoint the 4 points must be honored as Staff, as of the distribution of the 2012 prescore applications recommended the awarding of the points. To not award them now, after completing the 2012 prescore and receiving the points is unjustifiable.

Circulation Efficiency

Item 1B:

The criterion for 1B states the following: *"Provides for future extension of drive aisles, or connections to shared access drives or adjacent parking lots"*. The exhibit below highlights the shared access driveways that we have off of the enclaves throughout the project. Lots 58, 59, 60 and 61 have a shared access driveway. As we have shared access driveways the 1 point should be awarded.



Item 1J:

The projects commitment to privately maintaining all of the street lighting within the projects meets and or exceeds the intent of item 1J. The intent of item 1J is to reduce the maintenance and operating expenses of the streetlights. Our commitment to a privately maintained street lighting program will eliminate ALL maintenance and operating expenses to the City. As such, we respectfully request the Planning Commission to consider the awarding of 1 pt. for meeting and exceeding the intent of the criteria.

Liveable Communities Section B1:

San Sebastian has been awarded the TWO Planning Commission points each year it has competed (4 separate competitions). The Planning Commission by way of a super majority has deemed our project as having overall excellence. In 2011 our project was the only project to receive a super majority vote of approval. Since 2011 no significant changes have been made to the project. The project is currently in the final stages of a full-blown Environmental Review. We respectfully request the Planning Commission award the TWO points in the 2012 competition as it has previously.

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November 27, 2012

Jim Rowe
City of Morgan Hill Community Development
17575 Peak Avenue
Morgan Hill, CA 95037

Re: Diana-Sherimar Measure C 2012-09

Dear Jim,

After a review of the staff scoring of our Measure C application, I found a few items that need to be clarified.

- Quality of Construction Standards - Item B1 - An input problem on the worksheet caused a misalignment with the "check box", next to the description of the item. In the narrative box, I listed the individual items to be committed in order to alleviate any confusion. Staff response doesn't accurately capture the items we are offering to include. We are not committing to B1E but we are committing to B1K. This does not change the score given by staff.
- Circulation Efficiency – Item 1A - Both Jasmine Way and Bradford Way have been designed to connect to existing stub streets in the adjacent neighborhood. Points have always been awarded for this item in past Measure C scorings and the project has not changed. Request an additional one (1) point for item 1A.

Thank you in advance for your consideration of this request.

A handwritten signature in cursive script that reads 'Tali Robinson'.

Tali Robinson
Forward Planner
KB Home

MC-12-09: DIANA-SHERIMAR

18.78.280 Quality of Construction Standards

- A. "Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size, and height."
.....(15 points)"
- B. Standards and Criteria

1. Over and above commitments made in B1 above or in the Natural and Environmental category, the proposed development will install the following:

(Check the box(es) next to the letter below for those items the project is committing to. Corresponding points will update automatically)

	Pts
<input checked="" type="checkbox"/> a. Full exterior OSB/Plywood wrap with window/door flashing. (four points)	
<input type="checkbox"/> b. 5/8" Type "X" sheetrock in all interior walls. (four points)	
<input type="checkbox"/> c. Mud room from garage into home on 30% of homes. (three points)	
<input type="checkbox"/> d. 2-220 Volt electric car charging stations, inside of the garage. (three points)	
<input checked="" type="checkbox"/> e. All plumbing waste lines from 2nd story are installed with approved noise dampening system. (two points)	
<input checked="" type="checkbox"/> f. Recycle center built in to cabinet layout with pull outs for bins. (two points)	2
<input checked="" type="checkbox"/> g. Noncombustible Siding and roofing Materials except for window, fascia and door trim on all homes. (two points)	2
<input checked="" type="checkbox"/> h. Dual zoned (dual units) forced air heating on all 2 story homes or dual zone design with dampers on single story homes. (two points)	2
<input checked="" type="checkbox"/> i. R-13 sound attenuated insulation in all bathroom interior walls. (one point)	1
<input checked="" type="checkbox"/> j. All appliances are Energy Star rated. (one point)	1
<input checked="" type="checkbox"/> k. Garage Door opener on all garage doors with 2 openers per door. (one-half point)	0.5

Applicant's Answers		Staff Comments	
Comment	Pts	Comment	Pts
1. Project to include recycle bin cabinet, non-combustible siding and roofing materials, Dual zoned forced air heating on all 2 story homes, R-13 insulation on all bathroom walls, all appliances are energy star rated, all homes will include a garage door opener and two remotes.	8.5	Applicant commits to items B1e thru B1j for a total of 8.5 points.	8.5
Sub total	Maximum points: 15	Maximum points: 15	8.5

Total Points Requested by the Applicant	Total Points Recommended by Staff
8.5	8.5

MAXIMUM POINTS: 15

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES CP-09-03

SUBJECT: ALLOCATIONS FOR ON-GOING PROJECTS

EFFECTIVE DATE: OCTOBER 22, 2009

REVISION DATE: JULY 20, 2011

Allocation for On-going Projects

The City Council reserves a portion of the annual building allocation for on-going projects. These are projects that have competed previously and are partially built out. To be eligible, the earlier phases of an on-going development must be in compliance with the development schedule approved for the project and must have completed a phase or at least pulled 50 percent of the building permits for a phase.

The following exceptions are allowed:

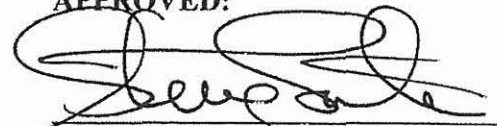
If a project is delayed due to extended city or other governmental agency processing.

If RDCS competitions occur annually, a project which has completed all planning entitlements (Zoning, Tentative Map, Development Agreement, Site Review) within one year of receiving allocations may be eligible as an on-going project only for the following year.

On-going projects may receive up to 15 building allotments each fiscal year outside of the RDCS competition process. The portion of the building allotment awarded to on-going projects is subtracted from the limited allotment for that fiscal year. For on-going projects awarded a building allotment in a corresponding Fiscal Year, the total allocation, including units from this set-aside, will not exceed 15 units. An on-going project may receive additional allocations (more than 15 units) through the competitive process in the RDCS competition. The allocation for on-going projects will be distributed at the same time the allocation for the Open/Market competition is awarded.

Any unused on-going set-aside allocation may be distributed to eligible projects in the other set-aside categories.

APPROVED:



STEVE TATE, MAYOR

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**MISSION RANCH LP
385 WOODVIEW AVE., SUITE 105
MORGAN HILL, CA 95037
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"**

September 28, 2012

Ms. James Rowe
COMMUNITY DEVELOPMENT DEPARTMENT
17555 Peak Avenue
Morgan Hill, CA 95037

Re: 2012 Measure C Competition – Mission Ranch Project

Dear Jim:

Pursuant to our prior discussions please consider this letter as our request for fifteen (15) allocations for the final Phase 16 of Mission Ranch as an on-going project. We have completed and sold out Phase 10A and Phase 10B. We have prepared totally new architectural plans, including revised Site Development Plans and Tentative map, all of which were submitted to the City on March 21st. The Master Plan Set for the new building permits was approved earlier this month. The Final Map and corrected Improvements Drawings for Phase 11 were submitted the first week of August, but have yet to be approved.

We are awaiting Staff approval of the Final Map and improvement drawings so that we can record the Map and pull the building permits. We had hoped to have been able to commence construction of Phase 11 by September 30th, but that is now impossible.

Funding arrangements have been made with Bank of the West, who has provided the constructing lending for all phases since the late 1990's. We had hoped to be able to record the map in September; however, Staff has been committed to other projects in the pipeline. We now expect to have permits issued and construction commenced for Phase 11 in October.

Very truly yours,

Mission Ranch, LP
By: Mission Ranch LLC
General Partner
By: Dividend Homes, Inc.
General Manager



By: Richard B. Oliver

**AMBER HILL INVESTORS LLC
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
roliver@dividendhomes.com**

September 28, 2012

Ms. James Rowe
COMMUNITY DEVELOPMENT DEPARTMENT
17555 Peak Avenue
Morgan Hill, CA 95037

Re: 2012 Measure C Competition – Connemara Project (Dividend-Watsonville Rd.)

Dear Jim:

The Connemara Project is a Senior Project consisting of 37 (33 allocations needed plus 4 replacement homes) homes. Phase 1 (16 allotments plus 1 replacement home) of the Connemara Project was awarded allotments in the 2010 Measure C Competition MC-10-01).

The project required substantial revisions to plans to comply with the requirements for a Senior Project. All drawings for the Tentative Map, Architectural and Site Review and the Development Agreement were submitted to the City in March of 2012. After almost a two month review, the City required an outside consultant to prepare the Initial Study for the EIR, which was funded by us in May. We are still awaiting the completion of the Environmental Documents from the consulting firm hired by the City. We are unable to proceed with the construction drawings, the improvement drawings and the Final Map until the Environmental work is completed and the Staff completes its report.

We had hoped to have been able to commence construction by September 30th, to comply with the BMR Reduction Program, but that is now impossible. We will commence construction in the Spring of 2013, in order to comply with the schedule that we expect to be set forth in the pending Development Agreement. We would like to be able to proceed with Phase 2 as soon as is possible after Phase 1 has been completed, which requires allocations for ten units in this year's competition in order to keep the project on-going without a year's delay in 2015.

Because of the environmental delays, we request ten (10) automatic allocations for the Connemara Project as an on-going Senior Project in this year's Measure C Competition.

Very truly yours,

By: Amber Hill Investors, LLC



By: Richard B. Oliver
President

MH CLAYTON LLC
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
roliver@dividendhomes.com

September 28, 2012

Ms. James Rowe
COMMUNITY DEVELOPMENT DEPARTMENT
17555 Peak Avenue
Morgan Hill, CA 95037

Re: 2012 Measure C Competition – Clayton Estates (Clayton O'Brien)

Dear Jim:

We will have purchased the Clayton Estates Project from the Dennis and Gloria O'Brien Foundation by next week. The Project includes the 7 lots (previously allocated) included on the Final Map, Tract No. 10066, which was recorded on March 27, 2012, plus an additional 5 pre-existing lots (that are exempt from Measure C). Earlier this year, the City Council cancelled five out of the seven lots that were previously allocated.

New architectural plans were submitted , along with revised site and architectural plans, all of which were approved by the City in late August. The project is now under construction. Grading has commenced on the two lots that still had allocations, and building permits have been issued. Utility extensions already exist, and the foundation forms should be set and ready to pour prior to September 30th.

In order to avoid delays in keeping the project on-going, we need to restore the five allocations that were lost by City Council action earlier this year.

Request is hereby made for five (5) automatic allocations for the Clayton Estates Project as an on-going small project in this year's Measure C Competition.

Very truly yours,

By: MH Clayton, LLC



By: Richard B. Oliver
President

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Jim Schilling

1220 Lions Peak Lane
San Martin, CA 95046,
Phone: 408-981-6620
E-Mail: Duengd2@aol.com

October 18, 2012
Rebecca Tolentino
Senior Planner
City of Morgan Hill

Dear Rebecca,

Thank you for taking the time to assist us regarding the Madrone Plaza Condominium Project. As you are aware, this project has been in litigation with the construction lender and the issues have recently been resolved. The MDM Investment Group is the new developer. The project should be moving forward rapidly at this point.

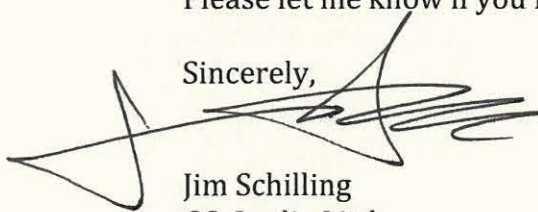
We are currently in negotiations with the MDM Investment Group for the purchase of Parcel B, the Condominium Project. We have entered into a Letter of Intent and expect to be in contract for the sale of this parcel shortly.

At this time, we are requesting a minimum of 15 allocations per year for Parcel B, in order for the new developer to complete the Condominium Project. These allocations would be in addition to the 24 allocations previously received for the Condominium Project as part of an on going project. These additional allocations would allow this project to be completed in a timely fashion with the new developer and in compliance with the Measure C criteria for "on-going projects".

In addition we are participating in an allocation swap with City Venture's project for nine of our Measure C allocations. As part of that process we would respectfully request a two-year extension of time in order for a new developer to move the project forward. We anticipate that this will be heard by the Planning Commission in late October or early November.

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to be "Jim Schilling", written over a horizontal line.

Jim Schilling
CC: Leslie Little
Mitch Oshinsky
Terry Linder
Jim Rowe

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